

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

GERALD M. EARNEST,)
v.)
Plaintiff,)) No. 1:08-CV-225
MICHAEL J. ASTRUE,)) Judge Collier / Ju
Commissioner of Social Security,))
Defendant.)

JUDGMENT ORDER

On October 5, 2009, United States Magistrate Judge William B. Mitchell Carter filed a report and recommendation (“R&R”) in this case, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) (Court File No. 18). Neither party has objected to the R&R within the given ten (10) days.

After reviewing the record, this Court agrees with the R&R. The Court hereby **ACCEPTS** and **ADOPTS** the magistrate judge's findings of fact, conclusions of law, and recommendations.

Accordingly, the Court **ORDERS**:

- (1) The defendant's motion for summary judgment (Court File No. 18) is **DENIED**;
- (2) The plaintiff's motion for judgment on the pleadings (Court File No. 14) is **GRANTED**; and
- (3) The Commissioner's decision is **REVERSED** and **REMANDED** to the Commissioner under sentence four of 42 U.S.C. § 405(g) for a reevaluation of the medical evidence and for the administrative law judge to adequately address the opinion of the treating physician and explain the weight he gives this physician.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE